

### **REMARKS**

Applicant respectfully requests reconsideration of this Patent Application, particularly in view of the above Amendment and the following remarks. No additional fee is required for this Amendment as the number of independent claims has not changed, and the total number of claims has not changed.

#### **Amendment to the Claims**

Applicants amended Claim 9 as suggested by the Examiner.

#### **Claim Rejections - 35 U.S.C. §102**

Claims 2-7, 9-14, and 18 have been rejected under 35 U.S.C. §102(b) as being anticipated by WO 97/39710.

Applicant's independent Claims 3, 9, and 18 each recite a *separate* flap sheet (Claims 3 and 9) or pocket sheet (Claim 18) attached directly to a fluid permeable body-side liner of the absorbent article or disposable diaper, respectively. The body-side liner, as the name dictates, as is described in Applicant's Specification and figures, and as is generally known to one skilled in the art (See, for example, WO 97/39710), is an absorbent article material layer that is between the absorbent core and the article user and a layer that contacts the skin of the article user. Applicant's

claimed invention is a separate pleated sheet structure that is attached to the body-side liner to provide a pocket for collection of fecal matter.

Applicant respectfully asserts that in rejecting Claims 2-7, 9-14, and 18 as being anticipated by WO '710, the Examiner incorrectly and improperly redefines and/or reclassifies the structure and elements of WO '710. As shown in FIGS. 10-15 of WO '710, the bodyside layer 54 (the top layer of the liquid control assembly 102) includes Z-folded portions between the center panel 104 and the lateral panels 120 (Page 24, line 32 - page 25, line 26). WO '710 discloses the bodyside layer 54 itself is pleated, and does not disclose a separate pleated sheet attached to the bodyside layer 54. As WO '710 does not disclose a separate pleated sheet attached to the bodyside layer, WO '710 does not disclose each and every limitation of Applicant's invention of Claims 3, 9, and 18.

At page 3, paragraph 5, of the Office Action, the Examiner claims the topsheet of the absorbent article disclosed in WO '710 is "the envelope web as disclosed at page 35, first full paragraph," and not the appropriately named "bodyside layer 54". Applicant respectfully asserts that the Examiner's identification of this envelope web as a topsheet is incorrect. One skilled in the art reading WO '710 would understand the disclosed envelope web to be, as described at page 35, an optional overwrapping for the absorbent assembly 52. The overwrapping envelope

web can be formed from a separate “bodyside wrap layer” and a separate “outerside wrap layer,” but the bodyside wrap layer is not disclosed as the bodyside layer 54 (Page 35, first paragraph). The use of the terms “bodyside” and “outerside” in reference to the wrap layers identify to one skilled in the art the orientation of the wrap layers within the absorbent article structure. WO ‘710 discloses the absorbent body, e.g., absorbent assembly 52, whether wrapped in the envelope web or not, is positioned beneath the bodyside layer 54, i.e., between the bodyside layer 54 and the backsheet layer 50 (Page 24, third paragraph). The envelope web is not, and would not be considered by one skilled in the art, a body-side liner as recited in independent Claims 3, 9, and 18.

WO ‘710 does not anticipate Applicant’s claimed invention, as WO ‘710 discloses a folded body-side liner, and not a separate pleated sheet directly attached to the body-side liner, as in Applicant’s claimed invention.

### **Claim Rejections - 35 U.S.C. §103**

Claims 2-7, 9-14, and 18 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Schaar, U.S. Patent 3,951,150, in view of WO 97/39710, Igaue et al., U.S. Patent 5,114,420, and Foreman, U.S. Patent 4,738,677.

Applicant agrees with the Examiner that the Schaar Patent discloses an integral flap 48 ( i.e., not a separate sheet as in Applicant's claimed invention) that is an extension of the box-pleat diaper 26 and folded about lateral fold line 50 (Col. 4, lines 8-22). However, Applicant respectfully disagrees with the Examiner that one skilled in the art would substitute a separate flap sheet for the integral flap sheet of the Schaar Patent.

The Schaar Patent discloses the flap 48 is folded over to cover and promote adhesion of the elastic loop 55 (Col. 4, line 50-66). The flap 48, being integral to the box-pleat diaper 26, includes each of the multiple pleats, thereby matching the front surface 34 and allowing for the lateral extension shown in Fig. 6. The Schaar Patent does not disclose or suggest a separate sheet for flap 48, particularly as any separate flap sheet would require the extensive matching pleating of the box-pleat diaper 26 and extensive and costly additional manufacturing steps. One skilled in the art would find no suggestion or motivation to substitute a separate sheet as the flap 48 of the Schaar Patent for at least these reasons.

In addition, the waistflap 60 of WO '359 is not disclosed as being pleated. Substituting the separate nonpleated waist flap 60 of WO '359 for the integral flap 48 of the Schaar Patent does not provide Applicant's claimed separate flap or pocket sheet that includes longitudinal pleats. Furthermore, Applicant has

already established in the record that neither the Foreman Patent or the Igaue et al. Patent disclose Applicant's claimed pleated flap sheet. Therefore, Applicant's separate pleated flap or pocket sheet of independent Claims 3, 9, and 18, respectively, would not have been obvious to one skilled in the art over the combination of the integral pleated flap of the Schaar Patent and any of the nonpleated flap sheets of the secondary references. Claims 2, 4-7, and 10-14 depend from one of Claims 3 and 9, and are thus patentable for at least the same reasons as Claims 3 and 9, respectively.

Claims 15-17 have been rejected under 35 U.S.C. §103(a) as being unpatentable over WO 97/39710 in view of Igaue et al., U.S. Patent 5,114,420.

Applicant's above remarks regarding WO '710 are also applicable to this rejection. Briefly restated, WO '710 does not disclose or suggest a pleated flap sheet directly attached to the body-side liner, as in Applicant's invention of independent Claim 15. As discussed in prior remarks of record, the Igaue et al. Patent teaches gathered material, but only in the leg regions of a diaper, and does not disclose or suggest forming longitudinal pleats that define peripheral sides of a pocket between the flap sheet and a body-side liner, as in Applicant's Claim 15. Therefore, the combination of WO '710 and the Igaue et al. Patent does not provide Applicant's claimed invention, and does not render Applicant's claimed invention unpatentable.

**Conclusion**

Applicant intends to be fully responsive to the outstanding Office Action. If the Examiner detects any issue which the Examiner believes Applicant has not addressed in this response, Applicant's undersigned attorney requests a telephone interview with the Examiner.

Applicant sincerely believes that this Patent Application is now in condition for allowance and, thus, respectfully requests early allowance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Mark D. Swanson', with a long horizontal flourish extending to the right.

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